

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

COLONIZE MEDIA, INC.,) Case No.: 1:20-cv-01053-DAD-SAB
Plaintiff,)
v.) ORDER GRANTING APPLICATION
TATE A. PALMER, et al.,) TO CONTINUE SCHEDULING
Defendants.) CONFERENCE, EXTENDING TIME
) FOR SERVICE ON DEFENDANT
) TATE A. PALMER, AND
) REQUIRING PLAINTIFF TO FILE A
) NOTICE OF STATUS OF
) DEFENDANTS TANTO MULTI
) MEDIA, LLC AND TRIWOLF
) MEDIA, LLC. OR REQUEST
) ENTRY OF DEFAULT
)
) (ECF Nos. 8, 9)
)

On July 29, 2020, Colonize Media, Inc. (“Plaintiff”) filed this action against Tate A. Palmer, Triwolf Media, LLC, and Tango Multi Media, LLC. (ECF No. 1.) On October 21, 2020, an order issued requiring Plaintiff to file a notice of the status of service on the defendants in this action. (ECF No. 7.) On October 22, 2020, Plaintiff filed a notice of status of service and an application to continue the scheduling conference in this matter for ninety days to effect service on Defendant Tate Palmer. (ECF Nos. 8, 9.)

1 Pursuant to Rule 4 of the Federal Rules of Civil Procedure, “[i]f a defendant is
2 not served within 90 days after the complaint is filed, the court--on motion or on its own
3 after notice to the plaintiff--must dismiss the action without prejudice against that
4 defendant or order that service be made within a specified time. But if the plaintiff
5 shows good cause for the failure, the court must extend the time for service for an
6 appropriate period.” Fed. R. Civ. P. 4(m).

7 Plaintiff asserts that despite diligent attempts to serve Defendant Tate A. Palmer
8 at three addresses in Los Angeles, California, and an address in Austin, Texas, service
9 has not yet been effected on Defendant Palmer. One of the Los Angeles addresses is a
10 business address and the process server was informed that the none of the defendants
11 have been tenants at the address for several years. The other two addresses are
12 residential. The process server has made six unsuccessful attempts on different days to
13 serve Defendant Palmer at one of the addresses and seven unsuccessful attempts to serve
14 him on different days at another address. A potential address was discovered in Austin,
15 Texas and an attempt was made to serve the defendant there, but the process server was
16 informed that Defendant Tate did not live at the address. Plaintiff believes that
17 Defendant Palmer is residing in Austin, Texas and is continuing attempts to serve him.

18 The Court construes Plaintiff’s application as a motion to extend time to effect
19 service of process on Defendant Tate A. Palmer. The Court finds that good cause exists
20 to extend the time for Plaintiff to effect service of process on Defendant Palmer.

21 Plaintiff also seeks to continue the scheduling conference in this matter out ninety
22 days to allow for service on Defendant Palmer to be effected. The Court finds that good
23 cause exists to continue the scheduling conference in this matter. According to the
24 proofs of service that were filed in this matter, Defendants Tanto Multi Media, LLC and
25 Triwolf Media, LLC. were served on August 24, 2020. Pursuant to Rule 12 of the
26 Federal Rules of Civil Procedure, a responsive pleading was due within 21 days after
27 being served with the summons and complaint. Fed. R. Civ. P. 12(a)(1)(A)(i). More
28 than twenty-one days have passed and no responsive pleading, stipulation to extend time

1 for defendants to respond to the complaint, nor request for entry of default have been
2 filed. Plaintiff shall be required to file a notice of status of Defendants Tanto Multi
3 Media, LLC and Triwolf Media, LLC. in this matter.

4 As no responsive pleading has been filed and not all defendants have been served,
5 a scheduling conference at this time would be premature.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Plaintiff's application to continue the scheduling conference is GRANTED;
- 8 2. The scheduling conference set for October 29, 2020 at 10:00 a.m. is
9 **CONTINUED to January 26, 2021, at 10:00 a.m.** in Courtroom 9;
- 10 3. The parties shall file a joint scheduling report **seven (7) days** prior to the
11 scheduling conference date;
- 12 4. The time to effect service of process on Defendant Tate Palmer is extended
13 **sixty (60) days** from the date of entry of this order;
- 14 5. Within **five (5) days** of the date of entry of this order, Plaintiff shall file a
15 notice of the status of Defendants Tanto Multi Media, LLC and Triwolf
16 Media, LLC. in this matter or a request for entry of default; and
- 17 6. Failure to comply with this order may result in the issuance of sanctions,
18 up to and including dismissal of this action.

19
20 IT IS SO ORDERED.

21 Dated: October 22, 2020



22
23
24
25
26
27
28
UNITED STATES MAGISTRATE JUDGE